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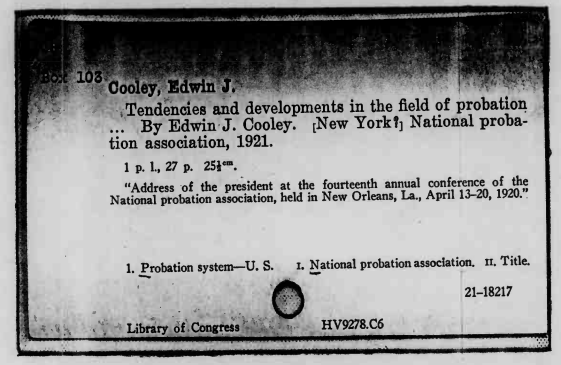

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TENDENCIES AND DEVELOPMENTS

IN THE

FIELD OF PROBATION

"The extent, the limitations, the dangers, the latest developments, the larger and more pressing problems, and the future needs and potentialities of probation in America."

By
EDWIN J. COOLEY

PUBLISHED BY THE
NATIONAL PROBATION ASSOCIATION
1921

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Tendencies and Developments in the Field of Probation[1]

Edwin J. Cooley, President, National Probation Association, Chief Probation Officer, Magistrates' Courts, New York

In this paper an attempt will be made to summarize in as compact a form as possible the extent, the limitations, the dangers, the latest developments, the larger and more pressing problems, and the future needs and potentialities of probation in this country. The probation service has grown to vast proportions in the past few years, and one cannot expect in a limited space of time to discuss its problems in great detail, so that this paper must necessarily be restricted to a consideration only of the larger aspects of the subject. In addition to whatever information this discussion may contain, it is hoped that it may be the means of bringing home a realization of the true significance and of the vast size and complexity, of the probation service in America.

Let us glance backwards just for a moment and consider the definite contributions which probation made to the winning of the war. In the State of New York, 2,137 men who had been on probation were actually engaged in either the military or naval service. These figures are not complete, of course, but if the same proportion held good for the whole country, we can realize that probation made a definite and substantial contribution to the welfare of our country. These men who ordinarily would have been locked up in prisons serving a sentence and being supported by the State, were out fulfilling the duties and responsibilities of the normal citizen of the United States. Everywhere the probation officers encouraged their charges to enter the service, assisted them in so doing, kept in touch with them, and aided

[1] Address of the President at the Fourteenth Annual Conference of the National Probation Association, held in New Orleans, La., April 13-20, 1920.

them greatly while they were in the service. Throughout the war period the probation system co-operated actively with the American Red Cross, the War Camp Community Service, the Commission on Training Camp Activities, the Knights of Columbus, the Young Men's Christian Association, the Jewish Welfare Board, and many other organizations. Awakened public interest in social efficiency which has notably resulted from the war has stimulated the preventive and reconstructive work now carried on by the courts. War work, as such, is no longer needed, but the fine spirit of co-operation and service which it engendered, will go on for social betterment and reconstruction.

Those of us who have been identified with probation work for some time can feel certain that the original purposes of probation have been largely secured. It is no longer necessary to speak of the many advantages of probation. Their number and importance are generally known. The success of the probation system, which had its origin in America, has been remarkable. It is American in its spirit and method, for it encourages the great American qualities of self-reliance, industry and thrift on the part of the probationer, and stimulates society to a sense of responsibility for the welfare of even its lowest members. The first probation law in any country was passed in Massachusetts in 1878. At the present time, most civilized countries and every State in the Union, as well as the District of Columbia, Alaska, Porto Rico and Hawaii have probation laws.

The use of probation in State courts throughout the country has been growing constantly and has been becoming more effective with the employment of competent, salaried probation officers. In New York State last year, 22,846 persons were placed on probation. In Massachusetts during 1918, 24,017 were so placed. New York State has 250 salaried probation officers at work in the courts; Massachusetts has 154. It is estimated that upwards of 200,000 delinquents were dealt with through probation throughout the country during the past year, and that at least 2,000 salaried probation officers are at work in connection with the courts of the country.

Many examples of the astonishing results of probation could

be cited. For instance, in Buffalo, 46 per cent of all offenders convicted of felonies are placed on probation, 71 per cent of whom are discharged with improvement. Massachusetts, the pioneer of probation, proclaims that she has not built a prison cell in twenty years, and that half the cells she has are vacant. On July 1, 1919, there were 2,905 more persons on probation in New York State than in all the penal institutions of the State. The number of persons on probation on this date was 15,681; the total prison population was 12,776. When we consider that it costs $219.63 a year per capita for prison care in New York and only $21.94 for probation care, we can readily understand what an enormous economic saving for the Government it is to have delinquents placed on probation.

Present Status of Probation

As we glance over the probation field in the whole country, we notice that certain states have exercised a great deal of caution in finally deciding to establish probation, and that they have frequently thrown about it severe limitations and restrictions. This offers no cause for amazement because probation is a fundamental variation from the legal theory of the State's relation to the offender. It has been a principle of the law that punishment must follow every offense, in order to compensate for damage, and to prevent further damage. Probation is a rather startling innovation in this long accepted procedure of jurisprudence, because it attempts to mold for the future, rather than to requite for the past. However, probation is becoming a precedent which is being followed rapidly by State after State, and having demonstrated its value both to the community and to the individual, is resulting in a socialization of court procedure, and is overcoming the too cautious spirit and the limitations which have hampered its full usefulness.

Limitation as to Age:

The first of these limitations is as to age. At present only 33 States provide for adult probation. Juvenile probation was first adopted in a majority of the States and in 14 it is still the only

form of probation legalized. The theory of human salvage is denied its full expression in these States except as to those persons who are presumably in a plastic, because a youthful period. It is no longer necessary to plead for juvenile probation. The field for inquiry and examination of results is that of adult probation. Certain limitations of juvenile probation, plentifully found in our laws, are indeed open to discussion, such as its confinement to populous sections and to first offenses; the dependence upon unpaid officers; the acceptance of the police as a substitute for distinctly social officers; the continued linking of supervision to the prison systems, and to other restraints of a minor, but by no means negligible kind.

Limitation as to Population:

Another limitation characteristic of probation legislation is that which restricts this aid to populous sections. Running through the statutes are provisions such as, that counties of a certain population may or shall have probation officers and that larger counties may have paid probation officers while the smaller ones must depend upon an unpaid service. The practical effect of these lines in the statutes is that probation is granted for urban but not for rural districts. If the merit of probation be admitted it is obviously unfair and unjust to exclude anyone from its aid merely because the offense happens to be committed in a region of comparatively sparse population. It is eminently desirable that probation be made uniform in its application, irrespective of density of population.

Limitation as to the Nature and Frequency of Offense:

The experience of the States where probation has been given its longest and most thorough trial goes to lessen the distinction between first and second offenses, between misdemeanors and felonies, between minor and aggravated crimes. In judging whether probation is wise, the chief consideration should usually be given not to the offense, but to the offender. Those convicted of a serious offense, as a felony, are sometimes more suitable for

probation than those guilty of a minor offense. The law in New York wisely provides that: "Courts may place defendants on probation for all offenses except those punishable by death or life imprisonment." One hundred and nineteen years ago Franz Joseph Gall wrote: "The measure of culpability, and the measure of punishment, cannot be determined by a study of the illegal act, but only by a study of the INDIVIDUAL committing the act."

The majority of the States still provide some limitations as to the nature of the offense in the use of probation; and at least six States, including some of those with the largest population, confine its use to first offenses, with such requirements as that there shall be no previous criminal record or that there shall not have been previous imprisonment for crime. Michigan furnishes an exemplary instance of progress away from such limitations, for its statute provides: "Where it appears to the satisfaction of the Court that the defendant is not likely again to engage in an offense or criminal course of conduct, and that the public good does not require that defendant shall suffer the penalty imposed by the law." In this revision it has only made exception of murder and treason.

Appointment of Probation Officers:

It is cause for congratulation that probation officers as a rule are appointed by the courts instead of being appointed from the the political field. No service would suffer more acutely from the intervention of politics. In one State the appointment is made by the Governor and in another by the Governor on recommendation from the court; in another by the State Board of Charities, and in another by the State Commission on Charity and Probation.

Certain states provide that probation duty shall be performed by police officers. In others the sheriff of the county is given the probation task. However, in the majority of cases, the typical phrase in the acts of these States is: "Probation officers shall not be active members of the regular police force but so far as

necessary in the performance of their official duties shall have all the powers of police officers." The police attitude is not the probation attitude and it would be regarded as a survival of the historic idea that the courts exist only to punish, if the police were requisitioned for this new and wholly reconstructive service.

Three states at least have required that appointment of probation officers shall be after competitive examination in order to arrive at fitness. Experience in New York State points to the conclusion that the most satisfactory method of obtaining the right kind of probation officers is that of the Civil Service system.

Uses of Probation Officers:

In some states the probation officer is called upon to inquire into such cases as seem to the court to need special investigation; in others we find the idea that each probation officer shall inquire into the nature of every criminal case brought before the court with which he is connected. The value of preliminary investigation into the social facts regarding the offender cannot be questioned. It is the corner stone of probation, for without this, how shall the judge be able to determine adequately the fitness of the material to be placed on probation? Hence, the conclusion that nothing short of inquiry into all cases fulfills the ideal of probation. In a very few States we find a provision that the probation officer may recommend to the court whether or not a convicted person shall be put on probation. It is quite possible that in other States this practice is more or less implicitly followed. Although the probation officer cannot be a party to the determination of the guilt of an offender, there should be no great objection to his passing on the merits or demerits of the case as fit material for probation.

Legislation Needed to Remove Restrictions:

Workers in the probation field have before them a great task in the education of the public, the legislators and the courts, and in advocating legislation which will remove the many restrictions which hamper the effective use of the probation system. In many states these bonds are so rigid and binding that the probation

service cannot function in any way near its possible degree of efficiency. Laws should be drafted and passed to provide adequate machinery and proper working conditions under which the probation system may reach its highest development.

Tendencies to be Avoided:

The probation system is capable of much wider acceptance and more extended use but, in common with all other human institutions, it is not free from its own peculiar dangers. These dangers arise in the main from a disposition to regard the newest thing in social advance as a panacea, and consequently to apply it to all sorts of cases without discrimination. Probation is a valuable institution, but it is not in all cases, even of juvenile offenders, a proper substitute for commitment. To fail to place the offender under a vigorous corrective discipline when such course is clearly indicated by the circumstances of the offense and the previous character and the present disposition of the offender, is an evil only less serious than to imprison the offender when the circumstances would justify his release upon probation.

The Probation Officer Must Not Be Overburdened:

The probation system may easily become so weakened as to be of little value. If the probation officer has an excessively large number of persons under his care and consequently cannot keep himself informed as to their conduct and habits, if he fails to visit them at their homes or places of employment and relies solely upon their occasional visits to him or even as in some cases, on written reports or information that may reach him accidentally, it is evident that probation has lost its meaning and that we cannot expect it to effect any improvement in the point of view or habits of the offender. The returns from the probation system in the form of actual reformation in the habits and character of the offenders will be in exact proportion to the amount of time, intelligence, energy and personal influence put into the probation work by those who administer it. Probation is what the officer makes it. One of the most common weaknesses in probation work is that most probation officers have more work than they can do

well. There is no greater duty incumbent upon probation officers in all communities than that of keeping constantly before the proper appropriating bodies the need for an adequate probation staff, a just compensation and sufficient clerical help. We know to our sorrow that wherever probation officers are overburdened with too many cases, real constructive probation work is impossible no matter how carefully the probation officers are selected, how skillfully they are trained or how hard they work.

Adequate Supervision Necessary:

During the probationary oversight of an offender the probation officer should obtain a full knowledge of all the important factors in the life of the individual affecting his conduct. It should by all means include full knowledge of his home surroundings, of the training received in the home, of his attendance at school and his aptitude shown in his school work, of his reaction to employment, of his forms of recreation, and of his religious training. Supervision should also include that which is very frequently overlooked, but is nevertheless of the highest importance—a careful mental and physical examination of the person by a competent physician. Such an examination will often bring to light defects of the senses, or other abnormal mental and physical conditions, some of which are often susceptible of remedy, but which in any event will have a marked bearing, if not a determining effect, upon the individual's conduct. It is self-evident that adequate supervision requires that considerable time must be devoted to each probationer.

Probation Period Must be Adequate:

Furthermore, it is obvious that a period of a few months is far too short to accomplish permanent results in changing the habits, attitude, environment and character of an offender. In fact, he would naturally require comparatively little observation during these first few months, for the shock of the arrest, trial and conviction is still fresh in his mind, and he is not so likely to repeat at once the offense which brings in its train such undesirable consequences. It is when the shock of these things has passed away,

when they have become less distinct and are less constantly borne in mind, and when the old temptations come back with their original force that the offender requires the guidance, the confidence and the moral support of a wise and a discreet friend such as the probation officer ought to be. It would seem generally that the minimum term of probation should be longer and the average term considerably longer than is now usually the case, and that only in this manner will the real difficulties as well as the real possibilities of probation be discovered. In New York, Massachusetts and in New Jersey, experience leads to the belief that for adults the minimum period of oversight should be one year.

Checking Violators and Absconders:

Again, in some cases probation is little more than a suspended sentence with the incidental advantages of oversight and admonition on the part of the probation officer, but without any recourse to severer measures if these admonitions are not heeded. If the probation officer allows a probationer to disregard his instructions with impunity, or if the judge fails to support the probation officer in requiring observance on the part of the probationer of the terms and conditions of his release, the whole system of probation will fall into disrepute. When the behavior of the probationer is unsatisfactory, he should be called into court for a sharp rebuke and warning, or for sentence.

Evasion of Probation by Change of Residence:

It has been the experience of probation officers that probationers are sometimes lost sight of by reason of change of residence and that they often move from one city to another, such removal being possibly for the purpose of avoiding the oversight of the probation officer, by leaving the jurisdiction of the court. It is evident that every opportunity for avoiding or evading probationary oversight on the part of those released under a suspended sentence, tends to bring the probation system into public disfavor, and to decrease that wholesome respect for the law which should be the natural result of an arrest and conviction. It is recommended, therefore,

that probationers removing from one city to another should be placed under the supervision of the probation officer of the city to which they remove, for the remainder of the probationary term, that every effort be made to apprehend absconders, and that there be developed for these purposes a very close and effective co-operation between probation officers throughout the country.

Volunteers Not Satisfactory:

In the early days, before probation officers had been officially appointed, much valuable and devoted service was given by private organizations, which helped, not only in the actual probation work, but also in the campaigns for legislation and for the appointment of officers. Experience has shown, however, that it is unsafe to rely upon salaried probation officers provided by private organizations as a permanent and sufficient form of probation organization. There are certain disadvantages in the use of probation officers receiving salaries from private organizations. Such officers are not fully responsible to the court; their time is not so completely at the service of the court; they cannot be so readily disciplined; they are liable to be drawn upon for other work, and in such cases must feel their first responsibility to the society which provides their salaries. The trend appears to be generally, throughout the country toward the administration of probation work by probation officers appointed as public officials wholly responsible to the public authorities and receiving their salaries from the public treasury. Private organizations, however, can still render valuable service in a twofold way. First, they can test out and prove new ideas in probation work; and secondly—and this is even more important—they can supplement and stimulate the work of the overburdened probation officers by carrying the great gift of spontaneous friendly service to families who need this more than anything else.

Salaries of Probation Officers:

Nothing is more indicative of the greater interest in probation work nor more conducive to improvement both in the quantity and quality of the work than the larger salaries which are being

paid each year to probation officers. There is hardly any feature of the system more important, both in order to obtain qualified persons who can devote their entire time to the service, and also to hold them after they have secured experience. When one considers the demands made upon a probation officer and the responsibility which rests upon him, it is clear that salaries of $1,200 and $1,500 are today entirely inadequate. Better salaries are urged, solely for the purpose of raising the standard of the service, for it is a fact that the quality and extent of the work done depends to a considerable degree upon the receiving of a fair and adequate salary. Considering the great increase in the cost of living and the higher qualifications demanded of probation officers, we recommend that the minimum salary be not less than $2,000 for qualified full time officers, with yearly increases allowed for efficient service. Effective probation costs money—but it pays.

Family Courts:

The Committee on Courts of Domestic Relations under the Chairmanship of Judge Hoffman advanced the idea of the Family Court to embrace jurisdiction over all matters relating to the family, including juvenile cases, parental neglect and delinquency, non-support and divorce. Progress has been made in the establishment of such courts in several states and the advisability of close co-operation between children's courts and domestic relation courts has been brought to the serious attention of the whole country. In Ohio the movement for family courts begun in Cincinnati has been extended to three other cities. Everywhere there have been improvements in the administration and enforcement of existing laws providing for these socialized courts.

The causes of juvenile delinquency, dependency of children, desertion and non-support, pauperism, alcoholism, divorce and marital dissensions are inter-related. All these, in a measure can be traced to some defect in the family, and that defect in many instances is so obscure that current methods of dealing with domestic relations fail to reveal them. It is apparent that to deal with the family effectively, to relieve present distress and to ascertain the causes of disruption of the family and the causes of anti-

social conduct in general, it is necessary that some court have power to deal with the family as a unit. At present the various phases of family life are considered by independent courts, and while these courts have accomplished much good and should be commended, yet their work in no way has been inter-related.

As a result of a study made by Ernest H. Shidler at the University of Chicago, covering 7,598 inmates of reformatories and industrial schools in a number of States, it was discovered that 50.5 per cent of delinquent boys came from broken homes. Since official records do not reveal the full facts in regard to the conditions of the parents, Mr. Shidler is inclined to think that the true percentage may be nearer 60 than 50. This means that approximately six out of every ten delinquent boys come from homes in which the parents are not living together. This study more fully confirms the previous opinions in regard to the disastrous results ensuing from broken-down homes. If for no other reason than for that of preserving the physical and moral integrity of the children, every effort should be made to conserve the solidarity of the family.

Juvenile and Domestic Relations Courts:

Undoubtedly there has been greater interest and progress in the development of juvenile and domestic relations courts during the last few years than at any time since the movement for these courts first began. The greatest progress has been shown in the southern States. Mississippi and North Carolina have enacted legislation providing for a State-wide system of juvenile courts. Other States during the past few years have extended the age limit for children in these courts from sixteen to eighteen years, and have revised their legislation to provide for paid probation officers and other administrative improvements.

While we must look forward to the establishment of family courts as a desirable social advance, there is also an opportunity immediately before us to develop and make more effective the work of the courts of domestic relations. These courts are now fairly well established throughout the country either as separate courts or as parts of existing courts. They are essentially probation courts and there exists within them an enormous field for the efforts of the probation system, in the patching up of family difficulties, in the reconciliation of husband and wife, in the upbuilding of the family morale, in the procuring of adequate compensation and the enforcement of the court orders to women and children who are deserted, and in the apprehension and punishment of deserters. In New York, Chicago and Philadelphia, these courts are carrying on on a large scale this constructive and healing work with families.

In the courts of domestic relations the modern tendency has been in the direction of keeping as many couples as possible out of court. The elimination of public hearings and the substitution of informal round table conferences with socially minded judges, the new practice of having complaints made to trained and sympathetic women employees instead of to men clerks, closer co-operation with all of the social agencies in the community and the establishment of clinical facilities for mental and physical examinations,—all of these are examples of the socialized procedure in these courts. It has been suggested that the National Probation Association should request the Federal Children's Bureau to make an investigation of domestic relations courts similar to the study which the Bureau has made of children's courts, with a view toward securing the best standards of procedure in all parts of the country.

Socialized Courts:

The movement for socializing the machinery of the courts, especially in the establishment and extension of juvenile and domestic relations courts has advanced rapidly. There is, however, a great deal of educational work to be done by probation officers with the public, with the judges, with lawyers and legislators so that they will come more and more to realize and appreciate the modern socialized conception of the offender, the law, and the courts. For the effective treatment of social problems our courts must have machinery and equipment which is social in its nature. This will include adequate legislation and jurisdiction, socially minded judges, ample probation departments,

clinical facilities to make mental and physical examinations, and informal or private hearings when necessary. Concurrently with the development of probation, the movement must be advanced to make our courts social agencies for the proper treatment and prevention of delinquency with all its consequent misery and social waste.

Probation Courts Advisable for Large Cities:

In larger cities of the country there would be a distinct advantage in setting up a Probation Part or Court. Such a court is actually in operation in the Magistrates' Courts of New York City. The probation court is designed to supplement and reinforce the work of the individual probation officers and increase the effectiveness of the probation system as a whole. It provides a means for centering in one court the entire judicial supervision of probationers. Heretofore probationers have been expected to appear before the individual magistrates who may have tried them. Different magistrates naturally have various and conflicting ideas about the purposes and methods of probation work. By establishing a single court with exclusive jurisdiction over all these matters, the impracticabilities of the former system will be brought to an end and diversity will give way to uniformity. There is also the additional advantage of having one magistrate hear and determine all violations of probation. Another idea underlying the establishment of a probation court is that a judicial termination of all probation periods is desirable. This gives dignity and impressiveness to the final act of the probation process. A more intelligent disposition of cases is secured by having them all reviewed at the end of probation by a single magistrate who can apply uniform standards in deciding whether the men should be discharged, continued under oversight or committed to an institution. To those whose conduct during probation has been satisfactory, an official certicate of discharge should be issued. This certificate is a sort of diploma, which can be shown by the probationer to anyone who in the future questions his fulfilment of the conditions of his probation. The proceedings in these courts should be simple and informal and suggestive of the atmosphere surrounding most juvenile courts.

The probation court can become a most valuable adjunct of the probation systems of the large cities where the number of cases is so great that it is difficult for the various judges to have any personal relationship at all with offenders who come before them.

Adequate Training of a Probation Staff Necessary:

One of the ever present problems of the administrator of a probation system is that of obtaining the right kind of probation officers. Definite qualifications as to character, ability and training should be required of those who seek to become probation officers. Merit and fitness alone should be the basis of appointment. It is also the task of the administrator constantly to keep in mind the necessity for guiding, controlling and training his staff. Staff meetings, case conferences with supervisors, difficult-case conferences, supervision of case planning, discussion of problems with co-operating agencies, formulation of the exact procedure in the various aspects of the work, are some of the means whereby the administrator can increase the efficiency of his organization and establish an esprit de corps.

Probation officers should be encouraged to attend all National, State and City conferences on probation and should be sent at the expense of the city; current reading material and facilities for study should be provided, and the probation officers should be encouraged to form their own organizations, to thresh out their own problems and to co-operate with the chief probation officer. The administrator of a probation system must constantly attempt to improve the quality of the service and must keep in mind that most of the men and women who enter the probation service are not trained in the work. Probation service is becoming more and more complex and is demanding a longer period of training before it is mastered. Consequently, the administrator must do his own training and educating, just as the executives of specialized industries meet this responsibility. For certain activities and professions, long established schools, with proper curricula and accumulated technique have furnished proper training, so that men fully qualified to work in these professions or activities have been turned out. In the probation field this has

not been the case and it is all the more incumbent upon the administrator to formulate and to push through such a process of training and education.

Current Tests and Studies of Work Advisable:

In order to formulate an adequate technique and procedure, the administrator should frequently make current tests and studies of the various aspects of his work. He should from time to time study intensively certain of its major problems, so as to make sure that he is obtaining the proper results and that the methods pursued are adequate for their purpose. For example, in New York City, we are at present engaged in testing the work of the family courts. In order to make certain that we are on the right road, we are analyzing carefully the results and testing the means whereby we effect them. The same sort of testing could be made of other aspects of probation service, as, for example, of the preliminary investigation work, of the supervisory work, of the work in the women's courts, in the juvenile courts, in the men's courts and even in other and more specialized and limited fields of probation.

A Study of Probationers after Release Desirable:

A clinching argument of the value of probation would be a study of the life and habits of probationers three or five years after they have been released from probation, providing it could show that a large percentage of the probationers had made a success in life. Such a study was made in Buffalo in a small way a few years ago, and in 68 per cent of the cases there was every evidence that the probationers had been permanently and substantially benefited by their probation, and to all appearances permanently removed from the ranks of criminals. A study of this kind, of an exhaustive nature and on a comprehensive scale, would establish beyond all question the strong and the weak points of probation, and its value as a constructive force in society. A series of such studies might be planned by the National Probation Association and might serve as tests and examples, which might blaze the trail for a comprehensive investigation throughout

the country. This could be undertaken as a special study by some foundation interested in philanthropic work.

A Country-wide, Standardized System of Statistics:

An adequate and standardized system of forms and statistical records should be established throughout the country so that in the course of a decade or two comparable data would accumulate for scientific study of the various aspects of probation and indeed of all social service work. The aim of probation should be not merely reconstruction but prevention, and should attempt to discover the causes of delinquency. Indeed, this should be the major and ultimate purpose of all social agencies. Medicine in the past confined itself to remedial work, but twentieth century medicine is coming to be preventive medicine. Nineteenth century social work is passing through the same phase. The probation service has a particularly valuable contribution to make in the study of the causes of delinquency and the means of its prevention, because at present the results to the individual and to society as a whole, are particularly disastrous in the case of moral breakdowns and infractions of the law. Poverty, improper parental oversight, lack of religious influences, bad companionship, defective education, bad working conditions, disease, bad housing, base political conditions, lack of recreational facilities, harmful neighborhood influences,—any of these may be at the bottom of a district degeneracy. The advent of crime should be regarded as a symptom, a challenge to the social agencies to attack the problem at its source and inception, to study the causes of delinquency and proceed to eliminate them. The ideal of the probation officer and of all social workers, should be to lessen his work, or at any rate, to emphasize the preventive and reconstructive side of his task.

Methodology of Probation:

We need a methodology of probation, something on the order of that set forth in Mary Richmond's "Social Diagnosis," one which considers the different types of probation cases and formulates the most effective methods of handling them. With such

information on hand, we would find that the problem of training probation officers would be greatly simplified and that probation work as a whole throughout the United States would be greatly benefited. We need a careful study of the whole sum total of the qualities of personality in order to formulate an adequate probation methodology. We need that same painstaking study of the structure of human personality that the physician makes of the human body; that same study of the functions of human spirit that the physician makes of human physiology; the same study of healing and upbuilding of human conduct, character and personality that the physicians make of the toxicology and the hygiene of the human body.

In formulating a methodology we have much to learn from psychologists, from the psychoanalysts, from the pedagogue, from the minister and priest, and from the industrial managers. Our technique must be based on a synthesis of the pertinent elements of all branches of human science and experience together with the distillation of the best experience in our own special field. For example, the probation officer must learn to recognize the weak spots and traits both in his probationers' characters, and in the communities in which the probationers live. He must learn to use the best tools for combatting both types of weak spots if he is going to do really constructive work for the individual probationer and for the community.

A definite technique of probation as in the case of pedagogy, means a careful study of human behavior, with this difference, that in the case of probation it is applied to cases socially pathological. Such a methodology, developed from a first hand study of actual cases, constantly applied afresh to individuals for constructive purposes, and used by properly trained probation officers, could not become mechanical and academic, any more than a physician who treats dozens of patients a day can become mechanical and unrelated to reality in his work.

Probation and Parole:

It is highly desirable that the supervision of those released from penal and reformatory institutions on parole, should be

developed on the same lines of supervision and responsibility as the probation system. Many similarities exist in the methods of doing probation work and of maintaining parole oversight of persons conditionally released from institutions. Much the same type of officers is needed. When two separate corps of workers, one for probation duties and one for parole duties, are in the field, there is apt to be overlapping. In different States, probation officers at the request of institutional authorities look after persons on parole. It has been urged that the co-ordination between these two branches of service should be closer, and there are advocates for the plan of having a single staff of officers discharge these dual functions. Here again, the solution must be found through experimentation. One thing, however, is certain; that is, parole work should not be allowed so to encroach upon the time of probation officers as to interfere with their regular probation duties. The assumption of parole work in large cities will usually necessitate the employment of more probation officers. As a matter of fact, in most places the probation officers at present have more than they can attend to in their probation work alone.

Federal Probation Law:

Social workers, attorneys and many United States judges have publicly urged the passage of a Federal probation law for several years. The National Probation Association has supported the idea. Prior to 1916, Federal courts assumed an inherent power to suspend sentence and actually exercised it in numerous instances, but in that year the United States Supreme Court made its decision in the famous Killitts cases, holding that, in fact, no such power existed and that the courts had been doing that which they had no authority to do. That put the granting of such authority up to Congress. In 1917, therefore, a bill was prepared by the National Probation Association. This bill passed Congress, though greatly weakened by amendments. It did not meet the approval of the Attorney General and was vetoed by President Wilson. Accordingly, a new bill, (H. R. 12036) has recently been introduced in behalf of the Association by Representative Lonergan. It has been referred to the Committee

on the Judiciary and a successful hearing on it has just been held. The United States District Courts, unlike nearly all State courts, have absolutely no power to suspend sentence or use probation. It goes without saying that the Federal judges are as competent to exercise discretion as are the judges of the State courts, and whereas there may not be as large a proportion of cases coming before the Federal courts where the use of probation would be desirable as before many State courts, there is, however, a large field for the use of probation in these courts.

The report of the Attorney General for the year ending June 30, 1918, shows that there were in the United States District Courts a total of 23,223 convictions in criminal cases. In addition, 18,965 persons plead guilty, making a total of 42,188 offenders disposed of. Many of these were cases of young and first offenders, convicted of violating the post office laws, such as stealing from the post offices and the mails, violation of interstate commerce laws, such as stealing from freight cars, violations of the food and drugs act, white slave act, and miscellaneous offenses, including offenses within the military zones, such as prostitution and liquor selling. The war and subsequent legislation, such as railroad control and prohibition, have increased greatly the criminal business of the Federal courts. At the same time these acts have brought before the Federal courts many cases of offenders reclaimable under the probation system who would have been helped and perhaps saved had their cases come before the State courts having adequate powers in this respect.

Of the Federal prisoners committed during the year ending June 30, 1918, 76 per cent were imprisoned for the first time. No less than 56.6 per cent were under thirty years of age, and of these 441 or 11.4 per cent of the total committed were boys under twenty years of age; 43 per cent were married, and 75 per cent were natives of the United States.

The parole laws and pardoning power of the President are not adequate to meet the need for a probation system. Under the parole law the defendant must be committed and serve at least one-third of the sentence in full. This usually means six months' sentence, and always means the branding of the delinquent as a

convict and taking him away in disgrace from his environment and associates. The result of long experience with the probation system shows that it is far easier to reclaim an unhardened, early offender without commitment to a prison than after it. The Presidential power of pardon is subject to the same criticism and can naturally only be exercised in special cases.

The bill which is now pending before Congress, is modeled on the best provisions for adult probation in force in the States of New York, Massachusetts and other States having successful probation work.

State Probation Commissions:

Experience has shown the necessity for, and benefits of, State supervision of probation. Historically, probation systems have grown up more or less spontaneously, have developed sporadically, without supervision or standardization, due to the fact that legislation was permissive. In most States probation is in a developing stage and requires study, experimentation, conference, education, constructive legislation and organization. This can best be secured through the influence of a centralized State body having powers of inquiry, co-ordination and general supervision.

At present only two States, New York and Massachusetts, have separate probation commissions. In New York State we are strongly of the opinion that, while probation work must always be permitted a considerable degree of flexibility to meet local conditions and individual needs, there should be provided, nevertheless, some form of central oversight. This should involve the collection of information in regard to the extent to which probation is utilized in different portions of the State from time to time, the manner in which probation work is carried on, and the value of the results secured. It should include the authority to make formal and detailed investigations of probation work in any given court or locality, when this is deemed advisable; it should provide for the making of suggestions to the Legislature from time to time for the improvement of the probation system; and for recommendations as they are needed to public authorities, judicial and executive, concerned in the administration of pro-

bation; it should involve the promotion of probation work in those localities in which it is not yet availed of; in short, it should involve the performance by some central authority, of the kind of work which the New York State Probation Commission has carried on during the past thirteen years. One of the activities of the National Probation Association has been that of encouraging and endeavoring to have established State probation commissions in all States of the Union.

In most States of the Union there exist conferences on social welfare. It would be an excellent idea if in the various States the probation officers would band themselves together and form associations which would co-operate actively in the program and work of the State conferences.

Probation in Cities:

At present the probation system has reached its highest development in some of the largest cities of the country. More than ninety per cent of those placed on probation last year in New York State came from the cities of the State. It is in the cities and the states where population is most congested that a combination of problems has favored the growth of the probation system. The desire to reduce the enormous cost of penal institutions, combined with the most advanced development of social service work has operated to favor the introduction and extension of probation. With the great number of cases passing through the city courts, the mere size of the problem alone has forced upon the attention of the people the eminent desirability of salvaging as much as possible from this large amount of human wreckage.

In many large cities there exist various court systems, each of which has the power to appoint probation officers, so that there are practically as many systems of probation as there are kinds of courts. It has been suggested that in such cities a central administrative control over all the probation work be established. It is recommended that the experiment be made of having the probation work of a whole city administered by a local probation commissioner or probation board to co-ordinate the work of all the probation systems, to organize a compact centralized administrative service, to establish a central bureau of records, and to study the probation problems of the city as a whole with a view of eliminating duplication of effort, standardizing methods and practice, and in general formulating and executing a city wide program for probation work. As yet we have no example of such a plan.

Probation in Rural Centers:

To those who are acquainted with rural conditions, there is no need to emphasize the importance of establishing some form of probation service in the smaller places. All recent studies of social conditions in the towns and villages and rural districts have shown that there is quite as much crime, immorality and degeneracy in the rural neighborhoods in proportion to the population, if not more, than there is within the cities. Often, however, it is not brought to light, and in but few rural communities are there those preventive agencies which are to be found in the cities. It is evident, therefore, that there is a large field for constructive probation work in the rural centers.

A centralized court, especially for children's cases, and a district or county probation service should be established in all rural districts throughout the States of the country. With the appointment of suitable persons as referees to hear cases in various parts of the county and having the court sit at stated times in different sections of the district, all portions of the county would be covered. The county probation office should be a clearing house for helpful social work in the courts of a county and with the help of local volunteers and agencies there could be established effective supervision of cases throughout the district embraced by the court. Moreover, a great amount of preventive and reconstructive work could be done.

During the past year there has been a considerable extension of county probation work in the country. In New York State thirty-seven out of the sixty-two counties in the State have salaried probation service. Three county children's courts have been established and have proved successful. It is by such advances as

these that a long step can be taken in making the country, in its human, as well as its physical aspect, as beautiful as God made it.

National Probation Association:

The National Probation Association if equipped financially could perform a great public service in extending and standardizing the probation system and making more effective its application thoroughout the country. Though limited financially, the Association has carried on the following activities:

1. Conducting conferences each year with probation officers, judges and others directly engaged in the social work of the courts, in attendance from all parts of the country.

2. Publishing and distributing the proceedings of the annual conference; also leaflets and pamphlets on vital phases of the work, including three editions of the National Directory of Probation Officers.

3. Serving as a bureau of information, and sending out literature upon request to all parts of the country.

4. Promoting legislation to establish probation and juvenile courts and improve their administration. Juvenile and adult probation laws have been drafted and sent to various States.

5. Carrying on a campaign for securing an effective probation law for the United States District Courts. The Association has drafted and introduced several bills in Congress.

6. Investigating and the preparing of reports by various special committees of the Association. The standard book by Flexner and Baldwin entitled: "Juvenile Courts and Probation," is the outgrowth of the work of a committee of the Association. The Association has secured the active co-operation of the Federal Children's Bureau in an investigation of rural juvenile delinquency in New York State, completed in 1917, and in a nation-wide investigation of juvenile courts which is still in progress.

Program for the Future:

The work and accomplishments of the Association have been greatly limited by inadequate funds. Such work as has been done

has been carried on through the volunteer services of its officers and committees. To meet the existing needs and to do the work which urgently needs doing, the following program for the immediate future has been proposed:

1. To serve as a clearing house for information on probation and specialized courts.

2. To assist actively in the drafting and enactment of more adequate probation and specialized court laws and in their enforcement.

3. To immediately carry to conclusion the active campaign which has been started to secure an adequate probation law for the Federal courts of the United States.

4. To publish and distribute the valuable proceedings of the annual conferences; to prepare an up-to-date edition of the National Directory of Probation Officers, and to publish other reports and leaflets to be sent to all members and to be used in educational work.

5. To make investigations, prepare reports and co-operate with other organizations through the committees of the Association and staff.

6. To largely increase the membership of the Association by a campaign for members to be carried on in all parts of the country.

7. To secure as soon as possible adequate financial support so as to provide for the employment of a competent full time general secretary and necessary office staff.

8. To draft standard forms and records which can be used for the various kinds of probation work in the country.

9. The formulation of a modern, adequate methodology of probation work which will consider all phases and kinds of probation work and serve as an inspiring manual and guide for the work of probation officers in the whole country.

10. To establish a probation organizing staff which shall be available for any community or State for the drawing up of plans or organization of probation in municipalities and counties and the organization of State commissions or associations, and the drafting and the enactment of probation laws.

The Future of Probation:

Probation is undoubtedly the most important recent development in the administration of the criminal law. The rapidity of the extension of probation service throughout the country in the past years is proof that it fills a fundamental need; that in both principle and organization it has struck deep roots which will mean permanent and continuous growth. We cannot venture to predict what will be the eventual outcome of the rivalry between probation and penal institutions. It may be that both will continue to exist, but that probation may finally outstrip in importance and in extent penal institutions. Possibly, in the last analysis, the penal institutions will become the place of detention for those persons morally incurable.

Our first great task is to make sure that the work which we are doing is being done adequately. We must constantly analyze and check up our methods of work. We should continually be testing the results of our efforts. We must not permit the great driving humane motive behind probation to degenerate into mawkish sentimentality, or believe that emotional fervor is an adequate substitute for concrete results. A tree is judged by the fruit it bears; we will be judged by the lasting and constructive impressions we leave upon the characters of the persons with whom we deal. We must, therefore, be continually on our guard against mechanical methods and superficial effort. Sincere and skillful workmanship must be our constant ideal.

Moreover, it devolves upon us to continue to plan and add to the present structure which we have commenced. To do this we must have a vision, an adequate conception of the potentialities of the probation service. We must also endeavor to work out these plans and ideals in a practical manner, to crystallize our experience into a distinctive and effective methodology, to put into operation adequate administrative control in the probation systems of the city, county, State and Federal courts. All phases and relationships of the social problem must be considered, all factors and institutions taken into consideration.

In the development of the probation service we must never lose sight of the personality and effectiveness of the probation officer.

The probation officer is the representative of a great conserving institution of society. It is he who has the direct contact with the probationer and represents to him the spirit and the authority of the law. As a piece of logical ingenuity the administrative system may be the best obtainable, but unless the probation officer is well trained, capable and sympathetic in his relationship to his charges, all else is as sounding brass. This powerful and almost universal impulse of magnanimity towards those who err must be focused, crystallized and organized so as to obtain definite and permanent results.

Finally, we must not forget our relation to the social problem as a whole. More and more we are coming to think of probation as only one factor in the great leavening process which social work in all its phases is effecting in the country. We are realizing more and more profoundly that probation does not differ essentially in its aims and functions from any of the other great divisions of social work. The probation system, in common with all the other organizations, is dealing constructively with the same kind of material, namely, human beings. It is only part of the twentieth century's colossal effort to increase the well-being and happiness of members of society. If we will only keep this large point of view constantly in mind, we shall be able to maintain a sane point of view, we shall not become obsessed with an undue sense of our importance, we shall not attempt to do alone what only can be accomplished by the active and whole-hearted co-operation of all the constructive forces of the community. The magnitude and the significance of our task constantly before us, will stimulate our ambition and will arouse in us the great emotions of allegiance and loyalty, which will impel us to labor more diligently and to accomplish larger and more permanent results.

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